

### **REMARKS**

Claims 2, 4, 5, 16 and 24 are pending. Claims 1, 3, 6-15 and 17-23 have been cancelled. Claims 7 and 16 have been amended. Support for the amendments can be found in the originally filed claims. New Claim 24 has been added. Support for the new claim can be found in the specification on, e.g., pages 10-11. Therefore, no new matter has been added. Favorable consideration of the currently pending claims is respectfully requested in light of the foregoing amendments and following remarks.

#### ***Rejections Under 35 U.S.C. § 102***

In the Office Action, the Examiner rejected Claims 1 and 16 under 35 U.S.C. § 102(b) as being anticipated by Rohr (U.S. Patent No. 5,445,971). Claim 1 has been cancelled, and applicant respectfully submits that the foregoing amendments to Claim 16 and the following remarks overcome the rejection.

Claim 16 has been amended to incorporate the limitations of Claim 3. Applicant submits that Rohr fails to disclose the limitations of Claim 16, and thus does not anticipate amended Claim 16. Applicant therefore respectfully requests that the rejection of Claim 16 under 35 U.S.C. § 102(b) in view of Rohr be withdrawn.

The Examiner rejected Claims 1-3, 16 and 17 under 35 U.S.C. § 102(e) as anticipated by Hagen *et al.* (U.S. Patent No. 6,872,358) (hereinafter “Hagen”). Applicant respectfully submits that the amendments to the claims overcome the rejection.

As mentioned above, Claim 16 has been amended to incorporate the limitations of Claim 3 and Claim 1 has been cancelled. As discussed in the Amendments filed April 2, 2007 and August 8, 2006, Hagen discloses a test strip dispenser in which the test strips are “moved” by magnet means. Hagen simply discloses, however, that a magnet is used to dispense test strips, and does not disclose or suggest that exposure of the test strip to a magnetic field causes “a specific spatial alignment or orientation of the test strip” according

to amended Claim 16. Moreover, as Claim 16 is a **process** claim, in contrast to cancelled **apparatus** Claim 1, applicant submits that this functional language should be given patentable significance.

Accordingly, Claim 16 is novel and non-obvious over Hagen, and applicant requests that the rejection of Claim 16 under 35 U.S.C. § 102(e) in view of Hagen be withdrawn.

Claim 2 depends directly from amended Claim 16 and contains of all the limitations thereof. For at least the foregoing reasons, applicant respectfully submits that Claim 2 is patentable over Hagen and requests that the rejection of this claim be withdrawn.

### ***Rejections Under 35 U.S.C. § 103***

In the Office Action, the Examiner rejected Claims 4 and 5 under 35 U.S.C. § 103(a) as being obvious over Hagen in view of Hegedus (U.S. Patent No. 3,384,093). Claims 4 and 5 depend from amended Claim 16. Moreover, Hegedus fails to cure the deficiencies of the references discussed above. Accordingly, because amended Claim 16 is believed to be allowable over the prior art of record, Claims 4 and 5 are also believed to be allowable, and applicant respectfully requests that the rejection of these claims under 35 U.S.C. § 103(a) be withdrawn.

In the Office Action, the Examiner rejected Claims 1, 6-8, 16 and 18 under 35 U.S.C. § 103(a) as being obvious over van Rijckevorsel et al. (U.S. Patent No. 4,578,716) (hereinafter “van Rijckevorsel”) in view of Casner (U.S. Patent No. 3,623,603).

As discussed above, Claims 1, 6-8 and 18 have been cancelled, and Claim 16 has been amended to incorporate the limitations of Claim 3. Applicant submits that the combination of van Rijckevorsel and Casner fails to disclose the limitations of Claim 16, as amended. Accordingly, independent Claim 16 is deemed novel and non-obvious over the

combination of van Rijckevorsel and Casner, and applicant requests that the rejection of Claim 16 under 35 U.S.C. § 103(a) be withdrawn.

***New Claim***

New Claim 24 has been added, incorporating the subject matter on, e.g., pages 10-11 of the specification. Applicant submits that the prior art of record fails to disclose the limitations of Claim 24. In particular, the prior art fails to disclose that an analyte can be applied to “a specific desired location on the test strip, wherein the specific desired location on the test strip is determined by the specific spatial alignment or orientation of the test strip in response to the magnetic field.”

Moreover, Claim 24 is dependent on Claim 16 and incorporates all of its limitations. Accordingly, as applicant submits that Claim 16 is allowable, new Claim 24 is deemed allowable and applicant requests that Claim 24 be given favorable consideration.

**CONCLUSION**

Based upon the amendments and remarks provided above, applicant believes that Claims 2, 4-5, 16 and 24 are in condition for allowance. A Notice of Allowance is therefore respectfully solicited.

No additional fees are believed due; however, the Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment, to Deposit Account No. 11-0855.

If the Examiner believes any informalities remain in the application that may be corrected by Examiner's Amendment, or there are any other issues that can be resolved by telephone interview, a telephone call to the undersigned attorney at (404) 815-6500 is respectfully solicited.

Respectfully submitted,

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